



General Assembly

Substitute Bill No. 5434

February Session, 2012

* ____HB05434PH____033012____ *

**AN ACT CONCERNING THE PROFESSIONAL STANDARD OF CARE
FOR EMERGENCY MEDICAL CARE PROVIDERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-184c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) (1) In any civil action to recover damages resulting from personal
4 injury or wrongful death occurring on or after October 1, 1987, in
5 which it is alleged that such injury or death resulted from the
6 negligence of a health care provider, as defined in section 52-184b, the
7 claimant shall have the burden of proving by the preponderance of the
8 evidence that the alleged actions of the health care provider
9 represented a breach of the prevailing professional standard of care for
10 that health care provider.

11 (2) Notwithstanding the provisions of subdivision (1) of this
12 subsection, in any civil action to recover damages resulting from
13 personal injury or wrongful death occurring on or after October 1,
14 2012, in which it is alleged that such injury or death resulted from the
15 negligence of a health care provider, as defined in section 52-184b, in
16 the course of providing treatment to a patient in a hospital emergency
17 department, the claimant shall have the burden of proving by clear
18 and convincing evidence that the alleged actions of the health care
19 provider represented a breach of the prevailing professional standard

20 of care for that health care provider.

21 (3) The prevailing professional standard of care for a given health
22 care provider shall be that level of care, skill and treatment which, in
23 light of all relevant surrounding circumstances, is recognized as
24 acceptable and appropriate by reasonably prudent similar health care
25 providers.

26 (b) If the defendant health care provider is not certified by the
27 appropriate American board as being a specialist, is not trained and
28 experienced in a medical specialty, or does not hold himself out as a
29 specialist, a "similar health care provider" is one who: (1) Is licensed by
30 the appropriate regulatory agency of this state or another state
31 requiring the same or greater qualifications; and (2) is trained and
32 experienced in the same discipline or school of practice and such
33 training and experience shall be as a result of the active involvement in
34 the practice or teaching of medicine within the five-year period before
35 the incident giving rise to the claim.

36 (c) If the defendant health care provider is certified by the
37 appropriate American board as a specialist, is trained and experienced
38 in a medical specialty, or holds himself out as a specialist, a "similar
39 health care provider" is one who: (1) Is trained and experienced in the
40 same specialty; and (2) is certified by the appropriate American board
41 in the same specialty; provided if the defendant health care provider is
42 providing treatment or diagnosis for a condition which is not within
43 his specialty, a specialist trained in the treatment or diagnosis for that
44 condition shall be considered a "similar health care provider".

45 (d) Any health care provider may testify as an expert in any action if
46 he: (1) Is a "similar health care provider" pursuant to subsection (b) or
47 (c) of this section; or (2) is not a similar health care provider pursuant
48 to subsection (b) or (c) of this section but, to the satisfaction of the
49 court, possesses sufficient training, experience and knowledge as a
50 result of practice or teaching in a related field of medicine, so as to be
51 able to provide such expert testimony as to the prevailing professional

52 standard of care in a given field of medicine. Such training, experience
53 or knowledge shall be as a result of the active involvement in the
54 practice or teaching of medicine within the five-year period before the
55 incident giving rise to the claim.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2012	52-184c
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Statement of Legislative Commissioners:

In section 1(a)(1) "but prior to October 1, 2012," was deleted, and, at the beginning of section 1(a)(2), "Notwithstanding the provisions of subdivision (1) of this subsection," was inserted to clarify that section 1(a)(2) sets forth an exception to the provisions of section 1(a)(1).

PH *Joint Favorable Subst.*